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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,182	11/12/2003	Todd M. Rounds	10413-001	6127
29391	7590	11/15/2004	EXAMINER	
BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A. 390 NORTH ORANGE AVENUE SUITE 2500 ORLANDO, FL 32801			DOUGLAS, STEVEN O	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,182	ROUNDS ET AL. <i>[Signature]</i>	
Examiner	Art Unit		
Steven O. Douglas	3751		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 September 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-51 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 23 and 42-49 is/are allowed.
 6) Claim(s) 1,3-8,13,15-17,19-22,24-27,29,34,39,40 and 50 is/are rejected.
 7) Claim(s) 2,9-12,14,18,28,30-33,35-38,41 and 51 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4,6-8,13,15-17,20-22,25,27,29,34,39 and 50 are rejected under 35

U.S.C. 102(b) as being anticipated by Edwards'583 et al.

The Edwards et al. reference discloses a fluid exchange apparatus for crank cases comprising a first chamber (i.e. pipe section 38) with associated volume sensor 40 and pump 36, a second chamber (i.e. pipe section 107) with associated volume sensor 104 and optional pump 108.

In regard to claims 1,3,4,6-8,13,15-17,20-22 and 50, the process as claimed would be inherent during the normal use and operation of the device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-8,13,15-17,19-22,24-27,29,39,40 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker'170 in view of Edwards'583 et al.

The Parker reference discloses a fluid exchange apparatus for automatic transmissions that utilizes the internal pump 40 associated with the transmission comprising a first chamber 11 and pump 31, a second chamber 12 and pump 37, wherein each pump and chamber has associated valving (29,26,18,27) for matching flows to and from the associated transmission. However, the Parker reference fails to discloses a fluid exchange system with volume sensors associated with the first and second chambers to operated the associated pumps. The Edwards et al. reference discloses another fluid exchange apparatus (supra) with associated volume sensors to control the operation of associated pumps to accordingly automate the fluid exchange operation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Parker apparatus to have volume sensors to control the associated pumps (31,37) in view of the teachings of the Edwards et al. reference to automate the exchange operation.

Response to Arguments

Applicant's arguments with respect to claims 1-51 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Art Unit: 3751

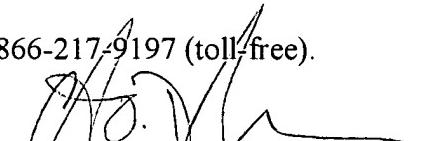
Claims 2,9-12,14,18,28,30-33,35-38,41 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 23,42-49 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is 703-308-0891. The examiner can normally be reached on Mon-Thurs 6:00-6:30.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven O. Douglas
Primary Examiner
Art Unit 3751

SD
11-11-04